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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-27593-2024

Date of decision: 29.08.2024

Juned

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Saurav Bhatia, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.383 dated 20.07.2023 under Sections 363/366/376/506 of IPC registered at Police Station Sadar Nuh, District Nuh (Annexure P-1).

The FIR (*supra*) was registered on the statement of the complainant by alleging that on 19.07.2023 at about 02:00 P.M., his daughter/prosecutrix went to the fields for serving fodder to the cattle and did not return. The complainant tried to search her everywhere but could not trace her. It is further alleged that about an year ago, the accused/petitioner had committed an inappropriate act with his daughter and captured a video of the said act but the matter was sorted within the family, on account of which, the complainant along with his family members decided to not initiate any legal action against him but he did not deter from his acts and continued to roam near his house and thus, the complainant apprehended that his daughter had been taken by the accused/petitioner and thus, the instant FIR got registered.



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Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and during the course of investigation, it has been concluded that the prosecutrix was major at the time of incidence and nothing has been found in the medico legal report of the prosecutrix to remotely suggest that she has been subjected to forcible sexual assault. It is further submitted that the Investigating Agency has already concluded the investigation and presented the final report. The petitioner is behind the bars since 02.11.2023, he is not involved in any other case and on the same set of allegations, the co-accused have been declared innocent by the Investigating Agency which further dents the case set up by the prosecution.

The learned State counsel has filed custody certificate dated 28.08.2024 in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that there are serious and specific allegations against the petitioner, however, she could not controvert the fact that the petitioner is 19 years of age and is not involved in any other case.

A two Judge Bench of Hon'ble Supreme Court in '***Satender Kumar Antil v. CBI***' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

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Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 02.11.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as out of 18 prosecution witnesses, none has been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Juned is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

29.08.2024*Neha*

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No